

STAFF REPORT  
January 22, 2009

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**No. 08SR103 - SDCL 11-6-19 Review to allow structures in right-of-way**

**ITEM 63**

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GENERAL INFORMATION:

APPLICANT	City of Rapid City
AGENT	Destination Rapid City
PROPERTY OWNER	City of Rapid City
REQUEST	<b>No. 08SR103 - SDCL 11-6-19 Review to allow structures in right-of-way</b>
EXISTING LEGAL DESCRIPTION	Adjacent to Lots 25 thru 32 of Block 93 of the Original Town of Rapid City, Section 1, T2N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	N/A
LOCATION	710 Kansas City Street
EXISTING ZONING	Central Business District
SURROUNDING ZONING	
North:	Central Business District
South:	Central Business District
East:	Central Business District
West:	Central Business District
PUBLIC UTILITIES	N/A
DATE OF APPLICATION	12/26/2008
REVIEWED BY	Karen Bulman / Mary Bosworth

RECOMMENDATION:

Staff will recommend that the SDCL 11-6-19 Review to allow structures in the right-of-way be approved if the following additional information is submitted prior to Planning Commission approval:

1. Revised site plans drawn to scale must be submitted for review and approval. The site plan shall indicate that either the traffic sign is relocated or the kiosk is relocated to preclude the kiosk from interfering with the traffic sign;
2. Structural information regarding the anchoring of the kiosks must be submitted for review and approval prior to Planning Commission approval; and,
3. A copy of the Memorandum of Agreement must be signed by Destination Rapid City.

GENERAL COMMENTS: Destination Rapid City has submitted this SDCL 11-6-19 Review

STAFF REPORT  
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---

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**ITEM 63**

---

application to obtain permission to allow a structure in the right-of-way. The monument style informational kiosk sign is to be located within the Kansas City Street right-of-way approximately 48 feet west of the northwest corner of 7th and Kansas City Street and seven feet north of the curb. The kiosk will be located in the median between the bicycle path and the sidewalk.

The property is located in the Central Business Zoning District. The land to the east, north, south and west is zoned Central Business District.

The six foot high and four foot wide kiosk is to be made of tarnished green steel and anchored to the sidewalk with bolts. The kiosk will not be lighted, but a six inch pole is part of the structure that will allow electrical connections in the future if warranted. A round ball with a decorative scroll will be located on top of the pole. The pole side will be towards the street right-of-way. Information will be located on both sides of the kiosk in a three foot by five foot space. Updated information will be replaced on the kiosk once a year or as warranted. The information includes a "you are here" map of downtown on one side, listing member businesses and locations for retail shopping districts, restaurant districts, office districts, and public building districts. The reverse side will include graphic art announcing a "gateway" to one of the downtown districts. The kiosks will not be used for advertising purposes beyond identification of the various business locations or community events.

South Dakota Codified Law 11-6-19 states that "...whenever any such municipal council has adopted a comprehensive plan, then no street, park or other public way, ground, place, space, no public building or structure, no public utility, whether publicly or privately owned, if covered by the comprehensive plan or any adopted part thereof, shall be constructed or authorized in the municipality or within its subdivision jurisdiction until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission". The informational kiosk is located on public right-of-way and is identified as being located within the area covered by the Rapid City Comprehensive Plan requiring that the structure be reviewed and approved by the Rapid City Planning Commission.

**STAFF REVIEW:** Staff has reviewed the proposed SDCL 11-6-19 Review request as it relates to the applicable provisions of the Rapid City Municipal Code and has noted the following considerations:

**Structure in the Right-of-way:** The Rapid City Municipal Code 12.20.020 states that signs must be placed and kept in such a manner that there is constantly maintained a clear path for pedestrians of not less than seven feet in width and also a clear path not less than 50 inches in width to provide access to any door or fire hydrant or valve on the abutting or neighboring property. However, the Rapid City Municipal Code 12.20.030 states that the section prohibiting structures in any public right-of-way do not apply to structures erected or maintained for public purposes by the City or under its authority.

The Sidewalk Cafe Ordinance indicates that such facilities shall not interfere with parking meters, fire hydrants or fire protection appurtenances, telephone poles or signs located in the public right-of-way. Chapter 12.20.020.E.2 of the Rapid City Municipal Code states that

STAFF REPORT  
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---

**No. 08SR103 - SDCL 11-6-19 Review to allow structures in right-of-way**

---

**ITEM 63**

a clear pedestrian path of at least five feet must be maintained at all times and the facilities shall not be located within two feet of the curb face. There are no vehicle parking areas located adjacent to this kiosk as it is located within the median area. A clear pedestrian path of seven feet will be maintained and the kiosk will comply with this ordinance.

The location of the kiosk on the preliminary site plan indicates that it will be located in front of a speed limit sign. As the kiosk would interfere with the sign, staff cannot support this location. The applicant has indicated that they will review the issue with the Public Works Department to either relocate the speed limit sign or to relocate the kiosk so as to not interfere with the traffic sign. Prior to the Planning Commission meeting, a revised site plan indicating that the kiosk will not interfere with the traffic sign must be submitted for review and approval.

Site Plan: The applicant has submitted preliminary site plans indicating the location of the kiosk. However, a site plan drawn to scale must be submitted for review and approval prior to Planning Commission approval, indicating the location of utilities, site distance triangles, structures in the area, the location of buildings and doors adjacent to the kiosk, the width of the sidewalks, and the location of the traffic sign.

Anchoring: The kiosks are to be made of steel with a bottom steel plate anchored to the sidewalk with bolts. Structural information regarding the anchoring of the kiosks must be submitted for review and approval prior to Planning Commission approval.

Historic Preservation: The proposed location of the kiosk is not within the Downtown Historic District or the environs, but is adjacent to the environs. However, as the preliminary site plan was not clear on the exact location, the application was reviewed by the Rapid City Historic Preservation Commission and the South Dakota Office of History to determine its effect on the historic district. The Rapid City Historic Preservation Commission considered the request on January 5, 2009 and recommended a finding of no adverse effect. The recommendation included a stipulation that the color would be tarnished green and that the finial would be a round ball with a decorative scroll. Subsequently, the South Dakota Office of History concurred with that finding.

Permits: The Rapid City Municipal Code 15.28.060 states that signs for a public purpose, as declared by the City Council, do not need to obtain a sign building permit. However, a permit to work in the right-of-way must be obtained from the City prior to the installation of the kiosks.

Memorandum of Agreement: Destination Rapid City has indicated that they intend to purchase the kiosks and have them erected. The ownership of the kiosks will then be transferred to the City of Rapid City. Destination Rapid City will assume the continued maintenance of the kiosks. The City Attorney's staff is preparing an Agreement addressing these issues for the City Council's approval. Prior to Planning Commission approval, a copy of the Agreement must be signed by Destination Rapid City.

Adopted Comprehensive Plan: The adopted Comprehensive Plan identifies the property as

STAFF REPORT  
January 22, 2009

---

**No. 08SR103 - SDCL 11-6-19 Review to allow structures in right-of-way**

---

**ITEM 63**

appropriate for public uses. The installation of an informational kiosk for public use will provide an additional benefit for patrons of the Central Business District and the traveling public. The installation of kiosks will enhance the Downtown Business District and is consistent with the Comprehensive Plan.

Staff will recommend that this SDCL 11-6-19 Review be approved at the January 22, 2009 Planning Commission meeting if the above referenced issues have been addressed.